

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 12, 2016**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 12, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Robert B. Arlett</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

**The Invocation and Pledge of Allegiance were led by Mr. Vincent.**

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 174 16  
Approve  
Agenda**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend the agenda by deleting “Introduction of Proposed Zoning Ordinances” and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Minutes**

**The minutes of April 5, 2016 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**MILFORD MUSEUM, MILFORD, DELAWARE  
RE: Letter in appreciation of grant.**

**Public  
Comments**

**Paul Reiger spoke concerning the rules of procedure for filling the vacancy that now exists on the Planning & Zoning Commission.**

**Dan Kramer commented on a recent Cape Gazette article regarding the 10 commandments of open meetings.**

**Jean Ward and Joyce Jason spoke in opposition to the proposed Winding Creek Village Water District mentioning salt intrusion, the added expense of public water, the 194 affidavits received stating the desire to opt out of the Water District, as well as the County’s inconsistent and more burdensome process required to obtain these particular affidavits when compared to other situations when affidavits are submitted.**

**Public  
Hearing/  
Z&Z Real  
Properties  
Annexation  
LNSSD**

**A Public Hearing was held to consider annexing an area of land into the Long Neck Sanitary Sewer District (Z&Z Real Properties, LLC).**

**Aref Etemadi, Planning Technician, presented the proposal for the annexation of an area of land into the Long Neck Sanitary Sewer District (Z&Z Real Properties). The proposed annexation is located at 26152 School Lane, Millsboro, DE (Parcel 234-23.00-234.00). Mr. Etemadi appeared before Council on March 15, 2016 and received approval to prepare and post notices for the expansion. No correspondence has been received in opposition to the proposed annexation. The project proposes the connection (requested by the homeowner) of an existing totally renovated home to the existing 8 inch sewer located in School Lane. The area includes a one single family lot. The adjacent property owner was also contacted to inquire of their interest of being annexed to the district, but no response has been received. The developer will be responsible for payment of all applicable fees including the system connection charge, annual service and front footage assessment per EDU based on rates established for July 1, 2015 thru June 30, 2016. The developer will also be responsible for making the connection to the existing 8 inch main and extension of the lateral to the building.**

**There were no public comments. The Public Hearing and public record were closed.**

**M 175 16  
Adopt  
R 006 16  
Extend  
Boundary  
LNSSD/  
Z&Z  
Properties**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 006 16 entitled, “A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE CERTAIN LOTS, PIECES OR PARCELS OF LAND, SITUATED WEST OF SCHOOL LANE IN SHERWOOD FOREST NORTH SUBDIVISION, SUSSEX COUNTY, DELAWARE”.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea, Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Wastewater  
Agreement**

**Mr. Lawson presented a Wastewater Agreement for the Council’s consideration.**

**M 176 16  
Execute  
Wastewater  
Agreement/  
Landings  
at Pepper  
Creek**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 516-6, that the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and “HKS 4 LLC” for wastewater facilities to be constructed in “The Landings at Pepper Creek (A/K/A The Marina at Pepper’s Creek) – Phase 3-4”, located in the Dagsboro/Frankford Sanitary Sewer District.**

**M 176 16  
(Con't.)**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Adminis-  
trator's  
Report**

**Mr. Lawson read the following information in the Administrator's Report:**

**1. County Government Day – Thursday, April 14**

The County is pleased to once again sponsor the annual County Government Day on Thursday, April 14. At 9:30 a.m., high school juniors from Sussex County Girls and Boys State will meet in the County Council Chambers. A mock County Council session will occur, with the representatives assuming leadership roles. It is always an interesting experience to watch student representatives tackle County issues as presented by County department heads. This program can be seen and heard on the County's website.

**2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Subcommittee Meeting**

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Monday, April 18, at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue to discuss planning for their annual conference scheduled for October 19, 2016.

**3. Department of Natural Resources and Environmental Control Meeting on FEMA Flood Maps**

On April 20, 2016, the Department of Natural Resources and Environmental Control will host a meeting to discuss the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) and review the preliminary Flood Insurance Rate Maps and Flood Insurance Study for Sussex County.

The meeting will take place from 1:00 p.m. to 3:00 p.m. at the Carlisle Fire Company Hall located at 615 Northwest Front Street, Milford, Delaware. The public is encouraged to attend.

[Attachments to the Administrator's Report are not attachments to the minutes.]

**Bid Results/  
Henlopen  
Acres  
Pumping**

Hans Medlarz, County Engineer, presented the bid results for replacement of the main power supply feeder cable for the four wastewater pumping stations located in Henlopen Acres, which are owned and operated by Sussex

<b>Stations Electrical Cable Replace- ment</b>	<b>County. Mr. Medlarz stated that a number of splices in the cable are exposed to the high ground water table and that this project would eliminate underground splicing and significantly reduce the potential for emergency shutdowns due to electrical ground faults. The original bids had to be rejected and a number of steps were taken to enlarge the bidding pool, which resulted in a number of contractors attending the pre-bid meeting. In the end, only one bid was received that was 19 percent below the Engineer's Estimate of \$250,142.11; the bid was reviewed by the County's consultants.</b>
<b>M 177 16 Award Bid/ Cable Replace- ment/ Henlopen Acres Pumping Stations</b>	<p><b>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 14-12 - Henlopen Acres Pumping Stations Electrical Cable Replacement, be awarded to Mid-Shore Electrical Services, Inc., Millsboro, Delaware, at the base bid of \$202,092.50.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>Grant Request</b>	<b>Ms. Jennings presented the following grant request for the Council's consideration.</b>
<b>M 178 16 Council- manic Grant/ DE Devil Dogs</b>	<p><b>A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Devil Dogs Detachment 780 for their 4<sup>th</sup> Annual Golf Tournament Fundraiser.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>Council Members' Comments</b>	<b>Mr. Arlett commented that he recently had the opportunity to be a member of the jury for a Superior Court mock trial held with a 4-H group from Bridgeville.</b>
<b>Old Business/ C/U 2039 Perfor- mance Injection Equipment</b>	<p><b>Under Old Business, the Council considered Conditional Use No. 2039 filed on behalf of Performance Injection Equipment, LLC.</b></p> <p><b>The Planning and Zoning Commission held a Public Hearing on this application on December 10, 2015 at which time action was deferred. On January 14, 2016, the Commission recommended approval with conditions.</b></p> <p><b>The County Council held a Public Hearing on April 5, 2016 at which time action was deferred to allow the applicant to present evidence that the financial obligation with the County had been resolved.</b></p>

**(Con't.)** Discussion was held if it would be allowable for any applicant to request and be granted modifications to conditions written by the Commission (after an application and conditions have been approved by Council) without neighbor notification. Mr. Lank confirmed that the Commission – not Council – may make minor changes to a condition without notification to neighbors if the Commission had recommended the conditions originally.

**M 179 16**  
**Adopt**  
**Ordinance**  
**No. 2441/**  
**C/U 2039**  
**Perfor-**  
**mance**  
**Injection**  
**Equipment**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2441, entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MANUFACTURING AND INSTALLATION OF PERFORMANCE AUTOMOTIVE PARTS AND ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2039) filed on behalf of Performance Injection Equipment Co., LLC, with the following conditions:

- a. No outside repair work shall be performed on the site.
- b. Any fluids removed from vehicles shall be placed in approved containers and removed by licensed handlers of those materials.
- c. All used or junked parts, equipment, etc. shall be stored from view from neighboring properties and roadways and shall be appropriately discarded or recycled.
- d. The chassis dynamometer shall be operated with the doors to its building closed. It shall also only be operated between 10:00 a.m. and 5:00 p.m. Monday through Friday.
- e. The property shall have security lighting that is downward screened so that it does not project onto neighboring properties or roadways.
- f. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- g. The applicant shall comply with all DelDOT requirements concerning access and roadway improvements.
- h. All dumpsters or trash disposal containers shall be screened from view from neighboring and adjacent properties and roadways.
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Arlett, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Rules of**  
**Procedure**

Mr. Moore read the rules of procedure for public hearings.

**Public**  
**Hearing**  
**C/U 2040**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF CONDITIONAL USE NO. 1474 (LANDSCAPING BUSINESS) TO

**Sposato  
Imports  
(Con't.)**

**UTILIZE A WAREHOUSE FOR THE STORAGE OF WINE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS” (Conditional Use No. 2040) filed on behalf of Sposato Imports (Tax Map I.D. No. 235-22.00-21.01) (911 Address: 16181 Hudson Road, Milton).**

**The Planning and Zoning Commission held a Public Hearing on this application on January 28, 2016 at which time the Commission recommended that the application be approved with the following conditions:**

- a. No retail sales shall occur from the site.**
- b. No additional signage shall be permitted.**

**(See the minutes of the Planning and Zoning Commission dated January 28, 2016).**

**Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and recommendation. The summary was admitted as part of the County Council’s record. Mr. Lank provided Council with a copy of the sketch site plan showing the existing improvements on the property, as well as the location of the warehouse to be used for the storage of wine. Conditional Use No. 1474 (landscaping business) was approved by County Council on January 14, 2003 with seven conditions of approval. Mr. Lank noted that no additional agency comments had been received since the Commission’s Public Hearing.**

**Mrs. Deaver took the opportunity to explain to those in attendance that the sequence of items on the Council agenda were sometimes subject to change in order to accommodate the advertised times of Public Hearings.**

**The Council found that the applicants, David and Karen Sposato, were present. They stated that the application was to convert an existing warehouse to be used for the storage of wine that would be imported from Argentina, which will be distributed to restaurants and package stores in Delaware, Maryland, and Washington, D.C.**

**There were no public comments in support or in opposition to this application.**

**The Public Hearing and public record were closed.**

**M 180 16  
Adopt  
Ordinance  
No. 2442/  
C/U 2040  
Sposato**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2442 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF CONDITIONAL USE NO. 1474 (LANDSCAPING\ BUSINESS) TO UTILIZE A WAREHOUSE FOR THE STORAGE OF WINE TO BE LOCATED ON A**

**M 180 16  
(Con't.)**

**CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS” (Conditional Use No. 2040) filed on behalf of Sposato Imports, with the following conditions:**

- a. No retail sales shall occur from the site.**
- b. No additional signage shall be permitted.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing  
C/U 2041  
Scott  
Witzke**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” (Conditional Use No. 2041) filed on behalf of Scott Randall Witzke (Tax Map I.D. No. 532-19.00-7.00) (911 Address: 8137 Delmar Road, Delmar).**

**The Planning and Zoning Commission held a Public Hearing on this application on January 28, 2016 at which time the Commission recommended that the application be deferred; on February 11, 2016, the Commission recommended approval with the following conditions:**

- a. No more than five (5) vehicles shall be displayed for sale on the site at any one time, and as stated by the applicant the vehicles shall be displayed only during daylight hours.**
- b. The vehicles shall be displayed no closer than fifty (50) feet from the front property line. The display area location shall be shown on the Final Site Plan.**
- c. There shall be no more than 15 vehicles stored on the site for sale at any one time.**
- d. No auto repair work shall be performed on the vehicles at the site.**
- e. As stated by the applicant, no automotive parts shall be sold from the site.**
- f. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- g. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site. In addition, no automotive parts shall be stored outside on the site.**
- h. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster location shall be shown on the Final Site Plan.**
- i. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**(Con't.) (See the minutes of the Planning and Zoning Commission dated January 28 and February 11, 2016).**

**Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation. The summary was admitted as part of the County Council's record. Mr. Lank noted that no additional agency comments had been received to date since the Commission's Public Hearing.**

**The Council found that the applicant, Scott Witzke, was present. Mr. Witzke explained that his business is approximately 7 years old, and is a wholesale business where typically everything is sold online, or thru international contacts who make purchase. Much of his sales go directly to the Port of Baltimore, New Jersey, or to Florida to be shipped to Haiti, the Dominican Republic, Nigeria, and other countries. Occasionally, someone may come to his business location to pick up a product. Mr. Witzke stated that he had no intention to display products out front with the exception of an occasional vehicle, but would not be displayed during night time hours; their method of sale does not lend itself to have an outside display. Mr. Witzke was approached by the State regarding the need for a retailer's license and is the reason for the zoning request to enable the transition from wholesaler to retailer; this will not impact their business operations. Mr. Witske stated that he is very sensitive to his neighbors and his property will continue to have the appearance of a farm; he noted that he has made significant improvements to his property since its purchase and plans to continue.**

**Mrs. Deaver raised question as to the inventory stored on the property as well as the sales from the property. Mr. Witzke noted that there may be some stored inventory, but most inventory would be toward the back of the 10-acre property. He noted that his inventory would also include heavy equipment (dump trucks, box trucks), along with vehicles; a lot of sales go directly from a remote location to an auction site or port.**

**Mr. Cole raised concern as to the compatibility of an agricultural residential district with the proposed use for a retail auto sales; the County's Land Use Plan states that the businesses in an agricultural residential district should complement the ag-related zoning. Mr. Witzke noted that he did not want to restrict himself from having stored inventory (no more than 10 and possibly one out front); he reiterated the amount of work that had been done to the property to bring it up to compliance; the planting of 15,000 pine trees as a perimeter; as well as the significant home renovations to date and the intention for continued improvements.**

**Mr. Arlett questioned the frequency and size of vehicles being sold and being picked up from his property. Mr. Witzke noted that vehicles are sometimes driven or hauled away; the need for a car carrier to be onsite would occur approximately once every six months.**



**(Con't.)            There were no public comments in support of the application.**

**John Tawa (Horsey Road), Russell Kajenskey (Delmar Road), Barbara Culver (Nanticoke Road, Salisbury), Joseph and Kathleen Willin (Delmar Road), and Dean Tingle (Delmar Road) spoke in opposition to the application and referenced their close or adjacent proximity to the site; adverse effect on property values in the area; fire hazard and water pollution risk (from petroleum products), as well as the impact to neighboring trees and cattle that roam within the surrounding wooded area; possible eyesore from vehicles and products stored and displayed onsite; noise; compatibility of proposed use within agricultural residential zoning; lighted 32 square foot signage; storage of dump trucks and heavy equipment; compliance and policing of specific conditions that may be imposed if the application is approved; and the small signage posted by the County notifying property owners of the proposed conditional use.**

**The Public Hearing and public record were closed.**

**Mrs. Deaver requested that the application be deferred.**

**M 181 16  
Defer  
Action/  
C/U 2041  
Scott  
Witzke**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” (Conditional Use No. 2041) filed on behalf of Scott Randall Witzke.**

**Motion Adopted:        5 Yeas.**

**Vote by Roll Call:       Mrs. Deaver, Yea; Mr. Cole, Yea;  
                                 Mr. Arlett, Yea; Mr. Wilson, Yea;  
                                 Mr. Vincent, Yea**

**Old  
Business/  
C/Z 1770  
TD  
Rehoboth**

**Under Old Business, the Council considered Change of Zone No. 1770 filed on behalf of TD Rehoboth, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on April 23, 2015, at which time action was deferred. On June 11, 2015, the Commission recommended that the application be approved.**

**The County Council held a Public Hearing on this application on June 2, 2015, at which time the Public Hearing was closed and action was deferred. At the conclusion of the Public Hearing, Council requested that the record remain open for a period of 30 days for written comments or questions from Council and/or responses from agencies; thereafter, once comments received had been introduced to the Council and into the public record, the record**

(Con't.) would remain open for a period of 15 days for anyone wishing to respond (in writing) to the comments submitted.

On August 18, 2015, Lawrence Lank, Director of Planning and Zoning, reported to Council that reports were received from DelDOT and the Department of Agriculture, and that comments were also received from Vince Robertson, Assistant County Attorney, in response to questions raised by the Council and from Janelle Cornwell, Planning and Zoning Manager, relating to FAA regulations. On that date, it was noted that the public would be given a 15-day period of time, until the close of business on September 15, 2015, to submit written comments pertaining to the information submitted to Council.

The County Council was advised by a memorandum from Lawrence Lank to Todd Lawson, County Administrator, dated September 8, 2015, that the County Council could place the application on a future agenda to report receipt of public comments on those four comments previously referenced; that once the receipt of the information was reported to the County Council, the record could then be closed; and that the County Council could then place this application on a future agenda to render a decision.

On September 15, 2015, Mr. Lank reported that, during the 15-day period and prior to the September 2, 2015 deadline, approximately 165 letters/emails were received and copies were distributed to the Council. On that date, it was noted that due to the volume of the correspondence received, Council would have to decide which comments addressed specifically those comments addressed by DelDOT, the Department of Agriculture, Vince Robertson, Esquire, and Janelle Cornwell, AICP. Vincent Robertson, Esquire, was also in attendance and stated that it was important for County Council members to remember that they could only consider and rely upon the comments that related back to the four referenced comments received. The public record was closed at the September 15, 2015 Council meeting.

<b>M 182 16 Adopt Proposed Ordinance/ C/Z 1770 TD Rehoboth (DENIED)</b>	<b>A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 114.4821 ACRES, MORE OR LESS" (Change of Zone No. 1770) filed on behalf of TD Rehoboth, LLC.</b>
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**Motion Denied: 4 Nays; 1 Yea.**

**Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Nay;  
Mr. Arlett, Yea; Mr. Wilson, Nay;  
Mr. Vincent, Nay**

<b>Council Members' Comments</b>	<p>Mrs. Deaver expressed concern regarding earlier discussion and stated that neighbor notification should always occur when any modifications are made to zoning conditions once an application and specific conditions have been approved.</p> <p>Mr. Arlett briefly revisited the reasoning for his vote regarding C/Z No. 1770 and expressed that the need exists to determine how to effectively work together – the County, State, and community – to be able to properly plan for growth and to find positive solutions to make that happen.</p>
<b>M 183 16 Go Into Executive Session</b>	<p>At 12:10 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to go into Executive Session for the purpose of discussing matters relating to personnel and land acquisition.</p> <p>Motion Adopted:     5 Yeas.</p> <p>Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Cole, Yea;                               Mr. Arlett, Yea; Mr. Wilson, Yea;                               Mr. Vincent, Yea</p>
<b>Executive Session</b>	<p>At 12:15 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to personnel and land acquisition. The Executive Session concluded at 1:20 p.m.</p>
<b>M 184 16 Reconvene Regular Session</b>	<p>At 1:40 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.</p> <p>Motion Adopted:     5 Yeas.</p> <p>Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Cole, Yea;                               Mr. Arlett, Yea; Mr. Wilson, Yea;                               Mr. Vincent, Yea</p>
<b>E/S Action</b>	<p>There was no action on Executive Session items.</p>
<b>Rules of Procedure</b>	<p>Mr. Moore read the rules of procedure for public hearings.</p>
<b>Public Hearing/ C/Z 1790 and C/Z 1791 Carillon Square Apts.</b>	<p>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.66 ACRES, MORE OR LESS” (Change of Zone No. 1790) filed on behalf of Carillon Square Apartments, LLC [Tax Map I.D. No. 234-23.00-269.13 (Part of) and 269.15 (Part of)] (911 Address: None Available) <u>and</u> the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL</p>

(Con't.)

**RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.19 ACRES, MORE OR LESS” (Change of Zone No. 1791) filed on behalf of Carillon Square Apartments, LLC [Tax Map I.D. No. 234-23.00-260.00 and 269.18 (Part of)] (911 Address: None Available).**

The Planning and Zoning Commission held a Public Hearing on both applications on January 14, 2016 at which time the Commission recommended that the applications be deferred; on January 28, 2016, the Commission considered both applications under Old Business and, again, recommended deferral. On February 11, 2016 the Commission recommended approval of both applications.

(See the minutes of the Planning and Zoning Commission dated January 14, January 28, and February 11, 2016).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and recommendation. The summaries were admitted as part of the County Council’s record.

Mr. Lank stated that the Exhibit Booklet provided by the applicant had been provided to each Council member, which included an Executive summary; data column; references to existing conditions; boundary survey; copy of the rezoning applications; copy of deeds; legal description; preliminary site plans; rezoning plan; multiple exhibits, maps and aerials; PLUS response; Environmental Assessment and Public Facilities Evaluation Report; and responses to Subdivision Ordinance Section 99-9C. The total acreage of the property is 27.02 acres and is located on the north side of Route 24 and west of the Route 24/Route 5 intersection. The two applications seek to rezone 17.2 acres to HR-1 High Density Residential, leaving the balance as AR-1 Agricultural Residential to allow an age-restricted development to be built on the property. To date, Mr. Lank noted that no additional comments had been received from any agencies or individuals on these two applications.

The Council found that Jax Corrado, Director of Leasing and Property Manager for Beach Plum Dunes Apartments; Zac Crouch, Professional Engineer with Davis Bowen & Friedel, Inc.; Eugene Bayard, the applicant’s attorney, and Preston Schell, Chairman and CEO of Ocean Atlantic Communities, were present on behalf of the application.

With the use of the zoning map, Mr. Bayard presented background as to how the area has evolved, or been developed over the past 20 years. The two applications replace an existing project, which was a planned 54,000 square foot shopping center and 125 townhomes, with 204 age-restricted rental apartments. The proposed project has been endorsed by the State Housing Authority.

(Con't.)

Mr. Crouch spoke to the review process; the application did require a PLUS (Preliminary Land Use Service) Review and comments were received from the Office of State Planning Coordination (Exhibit 2) on August 18, 2015; a Traffic Impact Study (TIS) was not required per the Service Level Evaluation Request (SLER) process; a January 12, 2016 memo had been received from Rob Davis, Senior Planner with the County, regarding sewer capacity noting that the combined EDU allowable for this project is 214 EDUs – the proposed request is for 204 units, which is well within that allowable EDU limit; the application went thru the TAC process; an Environmentally Sensitive Developing District Overlay Zone Report was prepared; and a letter was prepared demonstrating compliance with County Subdivision Ordinance Section 99-9C. Mr. Crouch briefly reviewed the preliminary site plan for Carillon Square with Council, which included the layout of the proposed application, as well as the numerous amenities (4-seasons pool, clubhouse, community garden, dog park, game courts, walking trail, woodlands, and sidewalks throughout the project).

Mr. Cole expressed concern regarding the proposed buffer to minimize the impact to the wetlands area. Mr. Crouch noted that although no buffer is required by County Code, a buffer of 20 foot buffer is planned; he stated that he would be agreeable to a 30 foot buffer.

Jax Corrado, property manager at Beach Plum Dunes and Leasing Manager with Ocean Atlantic Communities, spoke to the fact that Beach Plum Dunes is an Ocean Atlantic Project and includes 194 apartments. She noted that this project broke ground in 2013 and is currently at 100 percent capacity, with a waiting list of 65 individuals. The amenities at Beach Plum Dunes include a swimming pool, walking trail, playground, and dog park. Ocean Atlantic will be directing and managing the proposed Carillon project. She commented that the success of the proposed project includes the amenities offered and positive demographics. Beach Plum Dunes has only 9 percent of families with children, which reflects the amount of persons retiring to the area. Approximately 70 percent of Beach Plum Dunes' residents are 55 and over, coming from New York, Pennsylvania, Virginia, and Maryland. She commented that this type of apartment living is a lifestyle choice. Mr. Bayard presented an unsolicited testimonial that Ms. Corrado received from a resident of Beach Plum Dunes.

Mr. Bayard introduced Mr. Paul Chandler, President of the Delaware Apartment Association which is a trade association that represents approximately 28,000 apartments within the State, out of approximately 43,000. The apartment industry has realized good prosperity over the last 5 years and continued growth is expected. There are two segments that desire apartment living – baby boomers and millennials. Apartment living has become a decision of choice, not out of necessity. 55+ communities have become the answer to many and the amenities/services offered are very important to allow community living, flexibility, and improved lifestyle. Mr. Chandler commented that the proposed application offers very attractive amenities and services within the project itself, as well as thru the local area; he feels that the proposed project will be hugely successful.

(Con't.)

Mr. Arlett questioned the number of apartment complexes in Sussex County. Mr. Chandler commented that 4 apartment complexes have been built in Sussex County since 2011 – County Seat Apartments (Georgetown), Beach Plum Dunes (Lewes), The Reserve Sandbar (Lewes) and The Villages of Stoneybrook (Seaford); all of these properties are at 97 percent, or greater, occupancy. When asked, he estimated there are approximately 600 to 700 apartments in Sussex County. He noted that the majority of these apartments are smaller, 30 to 50 unit complexes, with a good deal of them being subsidized housing-type apartment complexes.

Mr. Bayard concluded by stating that the application meets a growing need in Sussex County; it is consistent with the Comprehensive Land Use Plan; it is consistent with the future land use plan; it is endorsed by the State Housing Authority; road infrastructure is already in place; sewer capacity exists; public water service is available; the project, as the Commission found, is consistent with the character and trend of development in this area of Sussex County; and not only are there no negative impacts created by this project, it is a far better plan and a far better project than its predecessor.

Mr. Cole inquired of any guarantee that the dedicated open space would not be developed at a future time. Mr. Bayard stated that the open space would be dedicated on the Final Site Plan that the Commission approves. Mr. Schell and Mr. Bayard noted that the area will be preserved as open space. Mr. Cole, again, mentioned his concern that this was an environmentally sensitive development district and questioned if any landscaping could be added to help soften the harshness of the parking lot design. Mr. Crouch stated that they will attempt to make these revisions on the Final Site Plan.

There were no persons in attendance to speak in favor or in opposition of this application.

The Public Hearing and public record were closed.

M 185 16  
Adopt  
Ordinance  
No. 2443  
C/Z 1790  
Carillon  
Square  
Apartments

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2443 entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.66 ACRES, MORE OR LESS" (Change of Zone No. 1790) filed on behalf of Carillon Square Apartments, LLC.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea

**M 186 16  
Adopt  
Ordinance  
No. 2444  
C/Z 1791  
Carillon  
Square  
Apartments**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2444 entitled, “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 17.19 ACRES, MORE OR LESS” (Change of Zone No. 1791) filed on behalf of Carillon Square Apartments, LLC.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**M 187 16  
Adjourn**

**At 2:32 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

**Nancy J. Cordrey  
Assistant Clerk of the Council**

***{An audio recording of this meeting is available on the County’s website.}***